

## § 300.348

(d) *Students with disabilities convicted as adults and incarcerated in adult prisons.* Special rules concerning the content of IEPs for students with disabilities convicted as adults and incarcerated in adult prisons are contained in § 300.311(b) and (c).

(Authority: 20 U.S.C. 1414(d)(1)(A) and (d)(6)(A)(ii))

### § 300.348 Agency responsibilities for transition services.

(a) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with § 300.347(b)(1), the public agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(b) Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

(Authority: 20 U.S.C. 1414(d)(5); 1414(d)(1)(A)(vii))

### § 300.349 Private school placements by public agencies.

(a) *Developing IEPs.* (1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with §§ 300.346 and 300.347.

(2) The agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) *Reviewing and revising IEPs.* (1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

(2) If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative—

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(i) Are involved in any decision about the child's IEP; and

(ii) Agree to any proposed changes in the IEP before those changes are implemented.

(c) *Responsibility.* Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.

(Authority: 20 U.S.C. 1412(a)(10)(B))

### § 300.350 IEP—accountability.

(a) *Provision of services.* Subject to paragraph (b) of this section, each public agency must—

(1) Provide special education and related services to a child with a disability in accordance with the child's IEP; and

(2) Make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.

(b) *Accountability.* Part B of the Act does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and benchmarks or objectives. However, the Act does not prohibit a State or public agency from establishing its own accountability systems regarding teacher, school, or agency performance.

(c) *Construction—parent rights.* Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures if the parent feels that the efforts required in paragraph (a) of this section are not being made.

(Authority: 20 U.S.C. 1414(d)); Cong. Rec. at H7152 (daily ed., July 21, 1975))

## DIRECT SERVICES BY THE SEA

### § 300.360 Use of LEA allocation for direct services.

(a) *General.* An SEA shall use the payments that would otherwise have been available to an LEA or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the SEA determines that the LEA or State agency—

(1) Has not provided the information needed to establish the eligibility of the agency under Part B of the Act;

(2) Is unable to establish and maintain programs of FAPE that meet the requirements of this part;

(3) Is unable or unwilling to be consolidated with one or more LEAs in order to establish and maintain the programs; or

(4) Has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of these children.

(b) *SEA responsibility if an LEA does not apply for Part B funds.* (1) If an LEA elects not to apply for its Part B allotment, the SEA must use those funds to ensure that FAPE is available to all eligible children residing in the jurisdiction of the LEA.

(2)(i) If the local allotment is not sufficient to meet the purpose described in paragraph (b)(1) of this section, the SEA must ensure compliance with §§ 300.121(a) and 300.300(a).

(ii) Consistent with § 300.301(a), the [State; SEA] may use whatever funding sources are available in the State to implement paragraph (b)(2)(i) of this section.

(c) *SEA administrative procedures.* (1) In meeting the requirements in paragraph (a) of this section, the SEA may provide special education and related services directly, by contract, or through other arrangements.

(2) The excess cost requirements of §§ 300.184 and 300.185 do not apply to the SEA.

(Authority: 20 U.S.C. 1413(h)(1))

**§ 300.361 Nature and location of services.**

The SEA may provide special education and related services under § 300.360(a) in the manner and at the location it considers appropriate (including regional and State centers). However, the manner in which the education and services are provided must be consistent with the requirements of this part (including the LRE provisions of §§ 300.550–300.556).

(Authority: 20 U.S.C. 1413(h)(2))

**§§ 300.362–300.369 [Reserved]**

**§ 300.370 Use of SEA allocations.**

(a) Each State shall use any funds it retains under § 300.602 and does not use for administration under § 300.620 for any of the following:

(1) Support and direct services, including technical assistance and personnel development and training.

(2) Administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985.

(3) To establish and implement the mediation process required by § 300.506, including providing for the costs of mediators and support personnel.

(4) To assist LEAs in meeting personnel shortages.

(5) To develop a State Improvement Plan under subpart 1 of Part D of the Act.

(6) Activities at the State and local levels to meet the performance goals established by the State under § 300.137 and to support implementation of the State Improvement Plan under subpart 1 of Part D of the Act if the State receives funds under that subpart.

(7) To supplement other amounts used to develop and implement a State-wide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under section 611 of the Act. This system must be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under Part C of the Act.

(8) For subgrants to LEAs for the purposes described in § 300.622 (local capacity building).

(b) For the purposes of paragraph (a) of this section—

(1) *Direct services* means services provided to a child with a disability by the State directly, by contract, or through other arrangements; and

(2) *Support services* includes implementing the comprehensive system of personnel development under §§ 300.380–300.382, recruitment and training of mediators, hearing officers, and surrogate parents, and public information and

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parent training activities relating to FAPE for children with disabilities.

(c) Of the funds an SEA retains under paragraph (a) of this section, the SEA may use the funds directly, or distribute them to LEAs on a competitive, targeted, or formula basis.

(Authority: 20 U.S.C. 1411(f)(3))

## § 300.371 [Reserved]

### § 300.372 Nonapplicability of requirements that prohibit commingling and supplanting of funds.

A State may use funds it retains under § 300.602 without regard to—

(a) The prohibition on commingling of funds in § 300.152; and

(b) The prohibition on supplanting other funds in § 300.153.

(Authority: 20 U.S.C. 1411(f)(1)(C))

#### COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (CSPD)

### § 300.380 General CSPD requirements.

(a) Each State shall develop and implement a comprehensive system of personnel development that—

(1) Is consistent with the purposes of this part and with section 635(a)(8) of the Act;

(2) Is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel;

(3) Meets the requirements of §§ 300.381 and 300.382; and

(4) Is updated at least every five years.

(b) A State that has a State improvement grant has met the requirements of paragraph (a) of this section.

(Authority: 20 U.S.C. 1412(a)(14))

### § 300.381 Adequate supply of qualified personnel.

Each State must include, at least, an analysis of State and local needs for professional development for personnel to serve children with disabilities that includes, at a minimum—

(a) The number of personnel providing special education and related services; and

(b) Relevant information on current and anticipated personnel vacancies and shortages (including the number of

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individuals described in paragraph (a) of this section with temporary certification), and on the extent of certification or retraining necessary to eliminate these shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs.

(Authority: 20 U.S.C. 1453(b)(2)(B))

### § 300.382 Improvement strategies.

Each State must describe the strategies the State will use to address the needs identified under § 300.381. These strategies must include how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities. The plan must include a description of how the State will—

(a) Prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities including how the State will work with other States on common certification criteria;

(b) Prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;

(c) Work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs;

(d) Work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of a program of preparation;

(e) Work in collaboration with other States, particularly neighboring